IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WP(C).No. 28956 of 2005(V)

PETITIONER:

SUNIL LAL.P,
MANGALATH HOUSE, KOOVAPPADY.P.O.,
PERUMBAVOOR.

BY ADV. SRI.P.ALI

RESPONDENT:

THE SOUTH INDIAN BANK LTD.,
BRANCH PERUMBAVOOR.

BY ADV. SRI.K.PRABHAKARAN, SC,SOUTH INDIAN BANK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE PROCLAMATION NOTICE.

EXT.P2: COPY OF THE SCHEDULE ATTACHED TO THE PROCLAMATION NOTICE.

EXT.P3: COPY OF THE OBJECTION FILED IN THE PROCLAMATION NOTICE.

EXT.P4: COPY OF THE PETITION FOR ADVANCING THE CASE.

EXT.P5: COPY OF THE PETITION UNDER ORDER 21 RULE 83(1) OF THE C.P.C.

TRUE COPY

P.A.TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C) No. 28956 OF 2005

Dated this the 27th day of June, 2007

JUDGMENT

In this Writ Petition filed under Article 227 of the Constitution filed by the judgment debtor, the petitioner impugns Ext.P1 sale proclamation issued by the Subordinate Judges Court, Paravur at the instance of the respondent-decree holder proposing to sell the decree schedule property for a total amount of Rs.17,11,868/-. The ground which is prominently raised in this Writ Petition is that the value of the property proposed to be sold is much more than the decree debt and that it will suffice if a portion of the property is sold. Noticing this contention, this Court granted stay of sale on condition that the petitioner pays to the respondent-Bank a sum of Rs.2,75,000/- within three months fro 14.10.05. Neither side is able to inform me whether the above condition has been complied with.

Having regard to the grounds raised, I am of the view that this Writ Petition can be disposed of issuing the following directions:

The court below will verify whether the petitioner has complied with the condition imposed by this Court on 14.10.05 that a sum of Rs.2,75,000/- shall be paid by the petitioner within three months from 14.10.05. If it is seen that the above condition has been complied with,

then the court below will hold up the execution proceedings for another three months from the day of receiving copy of this judgment. It is open to the petitioner to identify a person to purchase a portion of the decree schedule property in the meanwhile. Once such a purchaser is identified and the 1st respondent Bank is informed of the same, the petitioner will file an application seeking permission of the court to sell the property to the prospective purchaser. The court below will consider that application and pass appropriate orders so as to facilitate discharge of the entire decree debt. At any rate, the order of stay will not continue beyond a period of three months of production of copy of this judgment.

The Writ Petition is disposed of as above.

PIUS C. KURIAKOSE, JUDGE

btt